

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, : CRIMINAL ACTION  
No. 18-10385-NMG-1

Plaintiff, :

v. :

ROGER KNOX, :

Defendant. :

: :

BEFORE THE HONORABLE M. PAGE KELLEY,  
UNITED STATES MAGISTRATE JUDGE  
**DETENTION HEARING**

APPEARANCES:

For the United States  
of America:

United States Attorney's Office  
BY: ERIC S. ROSEN, AUSA  
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For the Defendant:

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U. S. District Court  
1 Courthouse Way  
Boston, Massachusetts 02210  
Wednesday, October 24, 2018  
1:23 p.m.

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1                                   P R O C E E D I N G S

2                   THE COURTROOM DEPUTY:   -- 24, 2018 and we're on the  
3 record in Criminal Case No. 18-10385, the United States of  
4 America versus Roger Knox, the Honorable M. Page Kelley  
5 presiding.

6                   Would counsel please identify themselves for the  
7 record?

8                   MR. ROSEN:   Good afternoon, your Honor.   Eric Rosen  
9 for the Government.

10                  THE COURT:   Good afternoon.

11                  MR. CONNOLLY:   Good afternoon, your Honor.   Bill  
12 Connolly for Roger Knox.

13                  THE COURT:   Good afternoon, Mr. Connolly.

14                  Good afternoon, Mr. Knox.

15                  THE DEFENDANT:   Good afternoon, your Honor.

16                  THE COURT:   So we're here for the detention hearing  
17 and also arraignment.

18                  And is your client ready to be arraigned?

19                  MR. CONNOLLY:   I don't think he is at this moment,  
20 your Honor.   We've been preparing for detention.   The Court's  
21 probably aware, I got appointed recently.

22                  THE COURT:   Sure.

23                  MR. CONNOLLY:   I've had to dedicate or focus my  
24 attention on gathering information for that aspect of the case.  
25 If the Court would like to arrange [sic] Mr. Knox, if somebody

1 has a copy of the indictment -- he was indicted yesterday --

2 THE COURT: Sure.

3 MR. CONNOLLY: -- I could review it with him either  
4 before or after detention and we can certainly do the  
5 arraignment today.

6 THE COURT: Okay. Why don't we just take a minute and  
7 we'll turn off your microphone.

8 MR. CONNOLLY: Sure.

9 THE COURT: I certainly understand the time.

10 Sir, it's just to get you, the speedy trial clock  
11 running and get you to enter a plea of not guilty today.  
12 That's what we're doing.

13 THE DEFENDANT: Okay.

14 THE COURT: But why don't you just turn the --

15 (Pause)

16 THE COURT: -- do you understand in a general way what  
17 it is that you're charged with?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Okay.

20 So I'm going to ask the Government to state the  
21 charges and the maximum possible penalties.

22 MR. ROSEN: Your Honor, he's been charged by a grand  
23 jury with two counts. First is a conspiracy to commit  
24 securities fraud, in violation of Title 18, United States Code,  
25 Section 371, and the second is securities fraud with -- and --

1 as well as aiding and abetting, in, in violation of Title 15,  
2 United States Code, Sections 78j(b), 78f(f), and United States  
3 Code, Section 2.

4 The substantive securities fraud count carries up to  
5 20 years in prison, 3 years of supervised release, and a fine  
6 of \$5 million. And the, the charge of securities -- commit --  
7 conspiracy to commit securities fraud provides for a sentence  
8 of no greater than five years in prison, three years of  
9 supervised release, and a fine of \$250,000, or twice the, the  
10 gain or loss of the offense.

11 THE COURT: Okay. And a hundred dollar special  
12 assessment for each count.

13 MR. ROSEN: That is correct.

14 THE COURT: Okay.

15 So, sir, if you'll stand up, we'll do the arraignment.

16 (Defendant complies)

17 THE COURTROOM DEPUTY: Mr. Knox, as to Count 1 of the  
18 indictment charging you with conspiracy to commit securities  
19 fraud, in violation of Title 18, United States Code, Section  
20 371, how do you plead, guilty or not guilty?

21 THE DEFENDANT: Not guilty.

22 THE COURTROOM DEPUTY: As to Count 2 of the indictment  
23 charging you with securities fraud, in violation of Title 15,  
24 United States Code, Sections 78j(b) and 78f(f), and aiding and  
25 abetting, in violation of Title 18, United States Code, Section

1 2, how do you plead, guilty or not guilty?

2 THE DEFENDANT: Not guilty.

3 THE COURTROOM DEPUTY: Thank you

4 THE COURT: Okay. Thank you very much.

5 And let's go ahead now and set the initial status

6 conference. And how about Monday, December 17th, at 10:20

7 a.m.?

8 MR. ROSEN: Okay.

9 THE COURT: How's that for you, Mr. Connolly?

10 MR. CONNOLLY: Just look at my calendar, your Honor.

11 You say December 17?

12 THE COURT: Yes.

13 MR. CONNOLLY: That's fine, your Honor.

14 THE COURT: Okay. And do you agree to exclude the  
15 time between the date of the indictment on October 23rd to the  
16 17th?

17 MR. CONNOLLY: Yes, your Honor.

18 THE COURT: Okay.

19 All right. So what's the status of the detention  
20 hearing?

21 MR. ROSEN: We're prepared to proceed. I talked to  
22 defense counsel. We're prepared to proceed by proffer today.  
23 About the, about the detention, the Government still asks,  
24 seeks detention under the relevant statutes of 3142.

25 THE COURT: Okay. And for, and just to go over those

1 one more time, you're moving under risk of flight?

2 MR. ROSEN: Both risk of flight and obstruction of  
3 justice, your Honor.

4 THE COURT: Okay.

5 Okay. So -- and this is not a presumption case. So  
6 I'll hear you.

7 MR. ROSEN: Okay.

8 Judge, it's the Government's burden to prove by a  
9 preponderance of the evidence a risk of flight. Here, we  
10 believe it's a very clear case. The defendant has been charged  
11 by a grand jury now participating in one of the largest, if not  
12 the largest, microcap pump-and-dump securities frauds ever  
13 brought in, certainly in this District, but most likely as well  
14 as in the United States. The total set forth in the indictment  
15 is about \$156 million of which Mr. Knox's cut was 6,  
16 approximately 6 percent of gross, gross, gross proceeds.

17 He did so through an entity called Wintercap.  
18 Wintercap used to be known as Silverton. I'll refer to it as  
19 Silverton right now, but just for the, so the record is clear,  
20 if we look at Government Exhibit 5. The exhibits, I --  
21 sorry --

22 THE COURT: Oh, okay.

23 MR. ROSEN: -- the exhibits I provided to the Court  
24 and I'll let your Honor get --

25 THE COURT: Okay.

1 MR. ROSEN: -- get there.

2 THE COURT: So are there any objections to the, any of  
3 the exhibits, Mr. Connolly?

4 MR. CONNOLLY: No, your Honor.

5 THE COURT: And how many of them are there?

6 MR. ROSEN: Seven.

7 THE COURT: Okay. So I'm going to admit these seven  
8 exhibits for purposes of the hearing without objection.

9 (Government's Exhibits 1 through 7 admitted in evidence)

10 THE COURT: Yes.

11 MR. ROSEN: And this was a -- what Exhibit 5 is, your  
12 Honor, is a, sort of a register of shares for Wintercap SA, his  
13 purported asset management company in Switzerland, and as you  
14 can see, Roger Knox is the, the whole, the whole owner of it, a  
15 hundred percent of the total shares.

16 So when we're looking at, at the facts, this isn't,  
17 this is not a person who's a low-level person in the  
18 conspiracy, maybe he got caught up in something. He's it, him  
19 and a business partner and dozens and dozens of co-conspirators  
20 around the world. He led it, he operated it for years, and he  
21 profited from signif, significantly and he, and he hid that  
22 money in bank accounts around the world.

23 I think I would, you know, I read the, I read the pre  
24 -- the -- the probation's officer report -- and obviously, I, I  
25 respect Mrs. Walls tremendously -- but I think what's lacking



1 there in recommending \$600,000 surety bond for the defendant is  
2 it has nothing to do with the case. It's essentially an  
3 arbitrary number. It doesn't reflect anything about him, the  
4 offense he committed, and the monies he made from this offense.

5         The evidence here is absolutely overwhelming.  
6 Obviously, there are documents showing he committed fraud, that  
7 he led Silverton, e-mails to that effect, e-mails of him  
8 setting up all the brokerage accounts and bank accounts around  
9 the world. We have records and documents of him committing  
10 fraud on the brokerages by purporting to lie about the number  
11 of shares that he and his, and Silverton/Wintercap owned. We  
12 have text messages of him obstructing justice and engaging in  
13 that with co-conspirators. And most notably, we have a, audio  
14 calls between him and, and co-conspirators in which he lays out  
15 evidence of the fraud in extreme detail.

16         And most note -- and, and one of the other things,  
17 point we have to remember is that we did a lot of search  
18 warrants in this case, but none on his, on Mr. Knox's accounts.  
19 He has no standing, really, to contest the evidence.

20         So when we're thinking about detention I think it's  
21 important to know the Government's ready to proceed. We have  
22 our documents and this isn't going to be two years down the  
23 road. We feel we'd be, you know, ready to present the case in  
24 fairly rapid, you know, fairly rapid time for a case of this,  
25 of this size.

1           So what's his incentive to flee? Well, I think almost  
2 the better option would be what is his incentive to stay? He's  
3 facing a base offense level of 7, plus 26 for a loss of \$150  
4 million or more, potential enhancements for money laundering,  
5 leadership, number of victims, fraud committed outside the  
6 United States. If he goes to trial, he's looking at Offense  
7 Level 41, a criminal history category of 1. That's 30 years.  
8 Even if he accepts responsibility, he's still looking at  
9 approximately 20 years in prison, a devastatingly, a  
10 devastating amount of time for someone like him in his late  
11 40s. Essentially, he'll be getting out in his late 60s.  
12 There's no incentive at all to stay, let alone, we believe, for  
13 \$600,000.

14           I found it interesting in the pre-sentence -- in  
15 the -- in the probationer's report that he wouldn't tell  
16 anything about his assets. In fact, we don't know anything  
17 about him after 2013. And that's his right under the Fifth  
18 Amendment, but the Government does know something about him  
19 from this multi-year investigation into fraud. And I think  
20 it's also important to note that "fraud" is a word that really  
21 just means lying and we have evidence that he was a liar,  
22 someone who cannot be trusted to provide correct information to  
23 brokerages, to customers, and to investors who lost over a  
24 hundred million dollars. And that's really what his job was.

25           And let's look at Exhibit No. 2 because we have to

1 rationalize what \$600,000 will do and one of the parts of the  
2 Bail Reform Act shows that the court should decline to accept a  
3 collateral, the \$600,000, if it will not reasonably assure the  
4 appearance of the person as required. And I'm not taking issue  
5 at all with the individuals in Lexington he has, he has chosen  
6 to put up his, his collateral. I have no evidence at all that  
7 they've been involved in any criminal activity. I'm not going  
8 to say that, but we have to know what we're dealing with here,  
9 what \$600,000 will buy us, and it buys us nothing.

10           The chart set forth in Exhibit 2 is an estimate. It's  
11 an estimate of assets based on records received by the  
12 Government. Obviously, some of those are older than others  
13 because you can't, you know, we don't have subpoena power over  
14 Mauritius and UAE, Switzerland, Canada, but what it does show  
15 is that there's an estimate of about \$12.259 million in cash  
16 and a securities balance of just about 36 million.

17           So I guess the question is this: Would you stick  
18 around for 5, 10 percent of your total assets? No. The answer  
19 is no. You would leave and if your friends lost your, their  
20 home equity, well, you just wire it to them. You get someone  
21 to drop it off at the door, big bag of cash. There's no  
22 incentive because \$600,000 will do nothing to impact his  
23 lifestyle or anything else. Some of this money has been  
24 frozen, but I don't control what happens in Mauritius, I don't  
25 control what happens in Switzerland, and I don't control what

1 happens in Canada.

2 So I have no assurances that that money will be there  
3 and won't be available for his use.

4 THE COURT: So if I can just ask you. With regard to  
5 Exhibit 2, which says Estimated Assets --

6 MR. ROSEN: That's -- yes.

7 THE COURT: -- and it's showing bank accounts in  
8 Canada, Malta, Mauritius, Switzerland, the U.S. --

9 MR. ROSEN: And UAE.

10 THE COURT: -- and UAE, okay, and you have Last  
11 Balance. When was that, do you know?

12 MR. ROSEN: Well, they sort of all -- they're all  
13 different because it depends when you get the records back, but  
14 generally, within the past year. And what -- and if I could  
15 just jump in there for Malta, we've been in communications with  
16 them and I believe from my last communications when we were  
17 sending out freeze orders that the cash balance was about \$3.4  
18 million, I believe. I don't have that record on me, but that  
19 was my, that was my, my last notification.

20 THE COURT: 'Cause you're showing here it's 3,600,000,  
21 but --

22 MR. ROSEN: So it -- it would have been -- that's the,  
23 the latest, 3.6. And that's from them within the past two, two  
24 weeks. And attempts were made to move that money, Judge.

25 THE COURT: When did that happen?

1 MR. ROSEN: After his arrest.

2 THE COURT: And do you know who did that?

3 MR. ROSEN: I believe it was on his direction as the  
4 sole -- the sole -- the, the sole owner and operator of the  
5 brokerage accounts.

6 THE COURT: So what's your evidence with regard to  
7 that?

8 MR. ROSEN: Well, I, I'd rather not -- I'd, I'd rather  
9 not disclose --

10 THE COURT: Because he --

11 MR. ROSEN: I, I'd rather not rely -- rely -- if --  
12 that, on that prong at this hearing, but --

13 THE COURT: Okay.

14 MR. ROSEN: -- I --

15 THE COURT: 'Cause he, he was trying to get a lawyer,  
16 too, right?

17 MR. ROSEN: He, he was, yeah. And we're not saying it  
18 was done completely illicitly, but what I'm saying is that the  
19 -- the -- we believe, you know, from our discussions with Malta  
20 that it had -- would have had to -- they wouldn't take  
21 direction from anybody but him because his, he was the, the  
22 name on the account.

23 THE COURT: And so you have frozen all of this, these  
24 accounts?

25 MR. ROSEN: What I'd say is we've, we've submitted

1 freeze orders. They're -- and, and that's why I have no  
2 assurances that the countries will freeze, will freeze them  
3 because, generally, they have to wait for forfeiture orders,  
4 which will come at the end of the case.

5           So my -- what -- it's different than in the U.S. when  
6 we have, you know, obviously, seizure warrants. Countries will  
7 do different things. They'll allow people to get money in  
8 violation of freeze orders. I mean, we're talking about  
9 countries like Mauritius, UAE, which I don't, I believe we  
10 don't have the freeze orders for them 'cause there's no MLAT  
11 agreement with, with the UAE. I believe so.

12           But it's very difficult with assets hidden abroad in  
13 so many different countries to (a) know exactly where his  
14 assets are. As I said, we sort of -- we, we don't know the  
15 unknowns that we have, that we, that we don't know. We don't  
16 know which other assets were missing because there's obviously,  
17 you know, many different countries and we don't know whether  
18 the countries involved will honor our freeze orders until the,  
19 you know, the end of the case.

20           THE COURT: And are -- have these been frozen by you  
21 or in the civil matter?

22           MR. ROSEN: They've been frozen -- the ones that I've,  
23 I have frozen have been frozen by MLAT as part of criminal  
24 seizure warrants issued here.

25           THE COURT: And do you think there are other assets

1 that are not listed here?

2 MR. ROSEN: I'm sure there are, I think. And, Judge,  
3 I'm -- I -- I don't want to, you know, speak out of turn for  
4 what, for what I don't know, but I believe that some of the  
5 assets were shifted from, fairly recently. I'm not saying  
6 after the arrest, but from the Dubai accounts to other accounts  
7 we don't, we don't know about. And I think that's based on my  
8 discussions with others involved in the case.

9 But I'm -- it would be impossible for us to know all  
10 of his assets 'cause we're -- the only, the only way we could  
11 know that is through MLAT or a MLAT process, which, in some, in  
12 some respects, can take a year or more to come back. So we're  
13 -- we're sort of -- we're batting behind this cage of what we  
14 know and of course, he didn't provide any information at all  
15 to, to Probation.

16 So we have nothing to sort of compare that to and I  
17 think that's a, really, a huge factor in, in, in risk of flight  
18 because we don't know what he -- what he -- what he owns and  
19 what he could provide to people in exchange for helping him,  
20 you know, flee across the border into Canada.

21 And I have to note that this case involves control  
22 groups, people involved in the fraud in the United States, but  
23 it also involves control groups in Mexico and Canada and --

24 THE COURT: So when you say "control groups," what do  
25 you mean by that?

1           MR. ROSEN: Control groups essentially, if I could  
2 back up a second.

3           The way his business worked was a -- a -- an  
4 individual or group of individuals would take control of a  
5 public shell, a shell company. They would, they would disguise  
6 their ownership of the shell because -- the, the reason for  
7 that is because SA, SEC rules and regulations require  
8 disclosure if you own a certain percentage of a public company  
9 and they also in the context of microcap securities prohibit  
10 trading over a very small percentage of the shares on a -- on a  
11 -- on a -- on a daily basis. The, the import of that is  
12 obvious, which is to prevent things like pump-and-dump schemes  
13 and that type, that type of stuff.

14           So a control group would take control of a, of a  
15 public shell, merge it into a private company in a reverse  
16 merger, and hide the shares in, generally, offshore nominee  
17 entities. So they'd hide it in the name of a, some random  
18 beneficial owner, some guy. And I have an example of that in  
19 the -- in the -- in the -- in the documents here where they  
20 chose an individual from Saudi Arabia to be a, be a beneficial  
21 owner. And that's Exhibit 6.

22           So at that point with the shares controlled by  
23 these -- by a -- by an individual or team of individuals but  
24 hidden in the names of other people -- it's all about deceit  
25 and disguise -- they'd move it over into Mr. Knox's platform,



1 the Silverton platform. And what Mr. Knox would do is he'd  
2 absorb it into his own company, Silverton. They'd change on  
3 the form, the transfer agent forms, they'd change it into  
4 Silverton or Wintercap names and then Mr. Knox would parcel it  
5 out amongst what they call omnibus brokerage, brokerages  
6 accounts, all in his name, Silverton name. The import of that  
7 was to further disguise who owned these actual shares.

8           So the shares were still controlled by these control  
9 groups, but all of a sudden they're in these omnibus brokerage  
10 accounts in Mr. Knox's control, Silverton. He would sell them.  
11 He would direct the trading we've seen in all the chats as part  
12 of pump-and-dump schemes. And then, he faced a problem. How  
13 do you get the money back from these overseas brokerages  
14 accounts to the control groups?

15           So they partnered up with a money transfer agency  
16 called WB21 and that is, really, based, based in Europe, but  
17 they created bank accounts in the United States in the name of  
18 Silverton and Wintercap. So they'd make it appear that the  
19 brokerages were transferring funds from Silverton brokerage  
20 accounts into Silverton bank accounts, but they weren't.  
21 Because the bank accounts were controlled by different people.  
22 Once they were in these Silverton bank accounts in the United  
23 States, the money would be transferred into bank accounts in  
24 the name of WB21 and from there, the money would be laundered  
25 back to the control groups. The whole purpose of that was to

1 disguise the origin and to disguise and to promote the  
2 securities fraud.

3           Because at the end of the day, it's about money. The  
4 people who own the stock, the control groups, want to sell the  
5 stock. The only way they can do it is with people like  
6 Mr. Knox and at the end of the day, they want their money back  
7 and they did that through this -- this -- this -- this system  
8 that served no economic purpose whatsoever other than to  
9 disguise and deceit the banks. The banks were, kept calling  
10 Mr., Mr. Gastauer, who controlled WB21, asking about these,  
11 these money transfers, which are huge, and he would lie to them  
12 and he would tell them that they were his own assets as part of  
13 his own investment vehicle called Silverton.

14           It's, it's all lies. It's all about taking something  
15 you can't sell, selling it, and getting your money back and the  
16 people left holding the bag are investors in the United States,  
17 people, a lot of elderly victims, a lot of people who, some  
18 people who are simply trying to cash in and cash out with a  
19 quick buck, other people who were taken in by their  
20 advertisements or promotions or press releases. The whole  
21 thing's a scam. It's a complete fraud and there are real  
22 victims here because of Mr. Knox.

23           THE COURT: How many victims are there, do you know?

24           MR. ROSEN: I mean, there would be thousands,  
25 thousands of victims. We, I mean, we've identified a few

1 through the, the two, the two scams identified in the  
2 indictment, EPTI and CURR, people who were, who were obviously  
3 taken in, but you look at some of the ages of these people and  
4 they're generally elderly, elderly victims, some not. I'm not  
5 saying everybody was.

6 But, you know, you get an e-mail, you get a phone  
7 call. There's boiler rooms involved, the whole process, and  
8 Mr. Knox wasn't really part of that, but he did do some funding  
9 for a lot of the promotions, notably the EPTI one where they  
10 sent a million dollars from America, the, the control group, to  
11 Mr. Knox, who then funneled it back to the, to the people doing  
12 that promotion. I mean, he was integrally involved. This  
13 wasn't some, a side business. This was his job and he made a  
14 lot, a lot of money, which he hasn't told the Court about.

15 THE COURT: So are there any other things that were  
16 uncovered during the investigation that suggest that he was  
17 avoiding apprehension or any such thing?

18 MR. ROSEN: Absolutely. And if we could go to Exhibit  
19 4, which is a text message exchange between a cooperating  
20 witness and Mr. Knox. They were arranging a meeting in the  
21 United States. And if you go to Page 3 of that, of that  
22 exhibit, it's an August 25th text message from Mr. Knox to  
23 Milan Patel. "I'm not sure if you are aware of this case when  
24 a layover between Canada and Mexico didn't go to plan." They  
25 were talking about meeting, perhaps, in Canada or Mexico. Then

1 he links to a press release involving 40 pump-and-dump schemes  
2 in secret owner offshore brokerage firms and he says, "For my  
3 clients' and my own freedom to operate, it is prudent to make  
4 travel plans wisely. I will, therefore, not route via USA.  
5 Either Canada or Mexico are available." And the next page he  
6 says, "To clarify, I am unable to meet you or a client in the  
7 U.S. I'm able to reschedule in September to Mexico or Canada."

8           When Mr. Knox was arrested he told the agents he had  
9 wiped his computer. We have text messages and in a call he has  
10 said that he typically erases his phone prior to travel. This  
11 is someone skilled in the art of deception and he simply cannot  
12 be trusted. He was not coming to the U.S. We were lucky to  
13 apprehend a international criminal and we are prepared to move  
14 forward swiftly with justice.

15           He has no ties to the United States. He has no  
16 partner that we know of. He's a UK citizen living in France  
17 working in Switzerland out of a -- out of a -- he lives in both  
18 France and Switzerland, actually, and works out of a 400-person  
19 village in Switzerland. He is someone who can travel  
20 internationally and blend in. He committed a massive fraud in  
21 the United States, but he refused to travel here and I think  
22 that pretty much says it all.

23           One of the factors that we're seeking detention on is  
24 obstruction of justice. He -- and the, the factor, I believe,  
25 is whether -- is there -- whether there is a serious risk of

1 obstruction of justice. We don't have to imagine that here  
2 because he has already obstructed justice. It's in the  
3 indictment in Paragraphs 41 through 43 and it's in the, I  
4 believe it's in the complaint as well. When the SEC began  
5 investigating a pump-and-dump scheme called EPTI in,  
6 essentially, June-July of 2017 him, his partner, and two  
7 cooperators began talking about replacing these beneficial  
8 owner certificates. So there, so instead of saying the, these  
9 assets were owned by Person X, they then decided to make them  
10 owned by Person Y. And they did that because Person X was  
11 connected to the control group. Persons X, Y, and Z were  
12 connected to the control group.

13           So they conspired and they agreed and that's set forth  
14 not only in calls that we have recorded with multiple people,  
15 but it's also set forth -- I'm not going to go through the  
16 entire exhibit -- but a group e-mail chain -- sorry -- a group  
17 text message chain done over a secured app where it's Exhibit  
18 3. And they talk about there replacing all these beneficial  
19 owner forms with different people so that the SEC would be none  
20 the wiser when they came to investigate.

21           And I have to note about the, the use of encrypted  
22 apps and the use of these bank accounts located in places like  
23 Mauritius, places like the UAE, Canada. He's not Canadian,  
24 he's not from Dubai, and he's certainly not from Mauritius.  
25 Again, these are done specifically to evade capture and to hide

1 assets that, so that he can get them later.

2 THE COURT: And what about the encrypted apps?

3 MR. ROSEN: Well, encrypted apps are used to shield  
4 from law enforcement so that law enforcement can't -- they  
5 believe law enforcement cannot intercept these in a, in a T3 or  
6 something like that. So they would use a, an app to, to shield  
7 those.

8 So we're being faced with a set of circumstances where  
9 his lawyer will ask you, say that he can follow the dictates of  
10 the Court, that he'll stick around, but his first inclination  
11 when faced with court process, the SEC, was to evade, was to  
12 destroy, to replace, and to obstruct. It's the lies. Those  
13 are the lies that we're here. Those are the lies that he's  
14 been charged with.

15 So -- and that pretty much concludes, your Honor, what  
16 I, what I want to say, but we balance all of that against a  
17 \$600,000 equity of someone he's at least, you know, he's  
18 visited a couple times in the past, I guess fairly recently,  
19 but is that enough? I mean, that's not enough when faced with  
20 essentially spending the rest of your productive life in  
21 prison. It's simply, your Honor, it's, it's, it's my belief --  
22 and I think we've proven by the preponderance -- that nothing  
23 can, nothing can keep him here.

24 So we respectfully ask for his detention until trial.

25 THE COURT: Can I just ask you to go through the

1 exhibits one at a time and make sure I understand what the  
2 purpose of them is?

3 MR. ROSEN: Sure. And I, and I didn't address Exhibit  
4 1, your Honor. I, I apologize.

5 THE COURT: That's all right.

6 MR. ROSEN: But Exhibit 1 is, this was found in his  
7 luggage and this is a Blacklight SA. This is a business card  
8 where he's a director of and Blacklight SA was, which he's  
9 worked at, I believe -- actually, it says in the, in his  
10 Pretrial report -- he's worked at since, is it 2010? Yeah. He  
11 indicated in 2010 he and his former colleagues began their own  
12 asset management company called Blacklight and that's the same  
13 thing as Silverton. It's a -- it's a pump-and-dump -- it's a  
14 pump-and-dump fraud machine.

15 So when I say eight years of lying, that's, that's  
16 what it's, that's what it's based on.

17 Exhibit 2 is the, the estimated assets we have for  
18 him.

19 Exhibit 3 -- and that, that's a lengthy one so I don't  
20 want to go that, go through too in depth -- but I think if  
21 your, your Honor was to skim it you'll find that what him, the  
22 two cooperators, and the co-conspirator in France were  
23 discussing was the obstruction prong of the case, the  
24 replacement of the beneficial owners from the nominee  
25 shareholders holding stock on behalf of the control group with

1 other people.

2 THE COURT: And who is Silver Arrow, Arum (phonetic),  
3 etc.?

4 MR. ROSEN: Silver -- Silver Arrow is Mr. Knox and  
5 Silver Eagle, I believe, is Richard Tarkett Adams (phonetic),  
6 who I think is, who is the, a co-conspirator in this case.

7 THE COURT: Okay.

8 MR. ROSEN: Exhibit 4 was your Honor's question about  
9 whether he, you know, was trying to evade law enforcement in  
10 the United States. That's a text, text message exchange  
11 between him and a, and a cooperator.

12 Exhibit 5 shows his entire ownership of the Wintercap  
13 criminal enterprise.

14 Exhibit 6 was also found on Mr. Knox incident to his  
15 arrest and again, this is a Form A. This is a beneficial owner  
16 identity and what it shows is that he was using these  
17 beneficial owners to hide stock on, on behalf of other people.  
18 This one is in the name of someone from Saudi Arabia.

19 So the SEC obviously, if they see it's name, the  
20 person's from Saudi Arabia it'll be difficult to contact that  
21 person and ascertain whether they truly own Bayview Equities,  
22 which is a company from the Marshall Islands. Mr. Knox and his  
23 partner would create these companies in the Marshall Islands  
24 and you see on, on, you know, Page 2 like the employer, it says  
25 "To be determined, real estate development." I mean, this is



1 not a, a real, a real person, at least from our records. We  
2 have no indication that this Rami Sakka (phonetic) was ever a  
3 client of Silverton. And you see in his personal net worth  
4 it's \$5 million, but his annual income is \$200,000, nice round  
5 number. This is just, in, in my belief, and I don't -- I don't  
6 see them -- I don't, you know, from our investigation we've,  
7 we've never come across this person as owning anything used by,  
8 by Silverton.

9 And Exhibit 7, the reason I put this in, this is a  
10 recent receipt from Delta Hotels in Toronto, Canada where he  
11 was before he flew to Mexico and the, the import of that is  
12 that, just purely to show that, you know, this is a, an  
13 individual paying 600, \$700 room, room rate. This isn't  
14 someone, you know -- it's showing he has assets and he's -- and  
15 -- which he won't disclose to the Court. These are very  
16 expensive hotels that he stays in for his travel.

17 THE COURT: So do you have reason to believe that he  
18 has other assets just, other than that you, you just don't  
19 know?

20 MR. ROSEN: Well, I -- I -- we've also recovered --  
21 yeah. I mean, yes. We -- we've, you know, when we searched  
22 his -- we did a, you know, search of his bags and wallet as an  
23 inventory check. He, he did have bank, bank cards for other  
24 banks that we were not aware of, but -- so the, the point is  
25 that it would be impossible for us to know all his assets --

1 and he hasn't disclosed them to the, to the, to the Court --  
2 because we have no ability to get documents from these places  
3 in any relative ease or quickness. There's no sort of credit  
4 rating bureau we can go to to see what his assets are and we're  
5 really, you know, in this context especially, we're relying on  
6 disclosure of assets, truthful disclosure and things like that  
7 and, and I think what we can, what we can say is that,  
8 obviously, that hasn't, hasn't occurred.

9 THE COURT: And you have two cooperating witnesses?

10 MR. ROSEN: In -- in the -- in the -- I only want to  
11 speak to what's public, your Honor.

12 THE COURT: I see.

13 MR. ROSEN: But there are three cooperators set forth  
14 in the complaint, coupled with a recording, text messages, and  
15 pretty incriminating documents that show direct lies to  
16 brokerage houses.

17 THE COURT: And are you able to sum up what the  
18 cooperators have, are telling you?

19 MR. ROSEN: Sure. Yes. I mean, every, everyone has  
20 said that Mr. Knox was a fraudster, that they went to him  
21 solely to commit fraud and he allowed them to do that. He knew  
22 very well that these stocks were held by control groups, this  
23 one located in both the U.S. and in Switzerland. And it's  
24 proven by the fact that no one would ever pay a 6 percent  
25 charge to trade securities like this. I mean, you go to

1 Fidelity you can trade for \$5 a, a pop. No one would ever do  
2 that. The only reason they do that, pay, would pay such a, you  
3 know, an, an obscene brokerage fee is because they wouldn't  
4 have been able to trade the shares anywhere, anywhere else  
5 without an accomplice willing to commit fraud.

6 And I think that's pretty evident from his text  
7 message where, "I'm not traveling to the U.S." He cites the  
8 pump-and-dump case and then says, "I'll meet you in Mexico or  
9 Canada." He knew what, he knew what he was doing. He knew the  
10 laws that he were violating and he did that because he made a  
11 ton of money, money we don't have access or control of, you  
12 know, to the best of our ability at this point and when you  
13 weigh that against the \$600,000 in equity that they're willing  
14 to put up, it's just, in my opinion, it's a, it's a pretty  
15 clear call that that would be pennies for him to just get up  
16 and walk away and, you know, provide them with the funds some  
17 other way.

18 THE COURT: Okay. Thank you.

19 Mr. Connolly.

20 MR. CONNOLLY: Thank you, your Honor.

21 Your Honor, first I'll very briefly respond to some of  
22 the Government's arguments and then I will make my pitch about  
23 the conditions that I think and Probation believes will  
24 reasonably ensure the appearance of Mr. Knox for the case going  
25 forward.

1           First, Government's position's understandable, given  
2 the nature of the allegations. Government's been investing  
3 the, investigating the case for years, living the case. It's  
4 an instinctive reaction in a case like this with somebody's not  
5 a U. S. citizen, with the amount of money involved, the  
6 guideline sentencing ranges being calculated by the Government  
7 to say that the defendant has to be detained. He's too big a  
8 risk of flight, but the Court has an opportunity to step back.  
9 The Court hasn't been living with this investigation and the  
10 Court can come at this fresh and look at what's being proposed.  
11 And that's really the critical aspect here and I'll get to that  
12 last.

13           I would not be arguing to the Court that \$600,000  
14 pledged by this defendant, given the allegation about his  
15 profit and the money involved and the assets, would be adequate  
16 to ensure his appearance. That's ludicrous. I wouldn't make  
17 such a ridiculous argument. It's a very different context  
18 here, given the person who is putting that up and how important  
19 that money and how significant that amount of money is to that  
20 person and I'll get to that at the end of this argument.

21           The, the Government cites to the, the deception and  
22 the lies. If, if misrepresentations in the course of a scheme  
23 to defraud were the, were grounds to detain a defendant, every  
24 defendant in every white-collar fraud case would be detained  
25 because that's the nature of a fraud case. The allegations are

1 always that there were misrepresentations, that there were  
2 lies. There's no even presumption of detention in the statute  
3 book based on misrepresentations and the reason there's no  
4 presumption is because every fraud case involves allegations of  
5 deception.

6           The assets moved here, I don't have enough information  
7 to directly address the assets, but I do know this and it's  
8 clear. It's, it's on the public record. In Judge Stearns'  
9 session with the SEC cases filed previously retained lawyers  
10 filed a motion to use money that was transferred from one  
11 account into the attorney's IOLTA account. It was a  
12 substantial amount of money, a retainer fee. The lawyers were  
13 open about the source of those funds and they asked Judge  
14 Stearns to carve out that money to be used for the defendant's  
15 defense based on the Supreme Court's Lewis case. The court --  
16 at the, at the time those funds were wired in the attorneys  
17 weren't aware of the TRO. They didn't know. It was sealed at  
18 the time. They didn't know where the funds came from, but  
19 there was no attempt to hide those assets. Clearly, at least  
20 with respect to those assets, the movement of some assets, it  
21 was an attempt to hire lawyers and, of course, that wasn't done  
22 secretly. That was done with the knowledge of the court.

23           With respect to the guideline sentencing range, the  
24 Government has thrown out a calculation, I think, that gets us  
25 up to a, a 41 and that sounds terrible, but the reality is in

1 this courthouse where judges are thoughtful and reasoned in  
2 implementing sentences -- and I'm not suggesting there's going  
3 to be a conviction, but I'm arguing worst case scenario for my  
4 client.

5 THE COURT: Sure.

6 MR. CONNOLLY: If there is a conviction, when judges  
7 weigh massive loss figures with the nature and history of the  
8 individual, judges in this courthouse are not sentencing  
9 individuals at those ranges.

10 And a perfect example is the TelexFree case. The  
11 Court is probably familiar with it. The Government touted as,  
12 touted it as the biggest Ponzi scheme in Massachusetts history,  
13 a \$1 billion Ponzi scheme. The offense level in that case was  
14 a 42 and the amount of money involved was, far exceeded the  
15 amount of money in this case. The Government moved for  
16 detention in that case. Ultimately, Judge Hillman said there  
17 are conditions that can reasonably ensure the appearance of  
18 James Merrill in court. He released Mr. Merrill on, I believe  
19 it was, \$900,000. Some of that money was Merrill's, some of it  
20 belonged to friends, and also ordered him, ordered conditions  
21 very similar to the conditions being proposed by Probation  
22 here.

23 In the Government's argument there opposing release,  
24 the Government pointed to a lot of the same things the  
25 Government's pointing to here and specifically pointed to all

1 kinds of overseas assets, assets in Brazil, assets that had  
2 been moved during the course of the investigation. This was a  
3 case where there was a search warrant executed at TelexFree's  
4 headquarters at Marlborough, Massachusetts. The criminal  
5 charges didn't come till much later.

6           So the defendants were aware that the charges were  
7 coming. One of the two owners fled to Brazil. He's, he's  
8 Brazilian. The American, James Merrill, he stuck around, but  
9 before the charges were brought there were massive movements of  
10 money from TelexFree's accounts. The Government pointed to the  
11 same thing in arguing for detention there. Judge Hillman  
12 released Mr. Merrill on very stringent conditions. He went  
13 home to his family. He ultimately showed up in court. There  
14 was a plea. It was not agreed upon. It was the Government  
15 recommending ten years. The defendant, I believe, was  
16 recommending five. I believe he ultimately received six, if my  
17 memory serves.

18           That's the way the process works here. Judge Hillman  
19 had before him facts about a very serious allegation about a  
20 Ponzi scheme that, if believed, constituted a massive, probably  
21 the biggest white-collar fraud case in Massachusetts history,  
22 but in a well-reasoned decision determined that there were,  
23 there were conditions that could reasonably assure that he  
24 would return. He did return. He complied with all of those  
25 conditions and in a case with a guideline sentencing range

1 higher than this case; in fact, worse than this case,  
2 Mr. Merrill returned to court, received his sentence, and is  
3 doing time right now. That's how the process works.

4           There are other recent examples of that. In the case  
5 United States v. Ross McLellan, he was a State Street executive  
6 con, convicted of executing a fraud involving approximately \$19  
7 million. His sentencing range was 12 to 15 years. He was on  
8 release. That was actually agreed upon. But with respect to  
9 the reasoned sentences they handed down, the guideline range  
10 was approximately 12 to 15 years. The Government recommended a  
11 very reasonable sentence of five years and Judge Sorokin, after  
12 trial, gave him 18 months.

13           I'm not suggesting that's going to be the sentence  
14 here, but I think the Court understands the point, which is in  
15 these white-collar fraud cases with big numbers, those numbers  
16 may drive the sentencing guidelines, but those numbers don't  
17 drive and dictate the ultimate sentence.

18           With respect to the money involved here, the  
19 Government argues that \$600,000 clearly isn't enough and as I  
20 said, it absolutely isn't enough if we're talking about the  
21 defendant's money. A defendant inclined to flee would be more  
22 than willing to part with his money. This is a very different  
23 scenario. What we're proposing here is for this defendant's  
24 good friend, David Moore, who's in the court today with his  
25 wife, Laurie Ann Moore, they're offering \$600,000 of equity in



1 their home. They do not have a \$50 million trust fund.  
2 They're hard-working individuals. I would call them  
3 successful, but \$500,000 to them is substantial and it's  
4 significant. It's meaningful. That would amount to the  
5 college educations of their two children. They have a, a son  
6 12 and a daughter 13. That money means a lot to them.

7 The Court is, of course, free to inquire of David  
8 Moore and I would actually invite the Court to and, and  
9 recommend to the Court that you inquire of David Moore because  
10 I think the request here to release the defendant all comes  
11 down to this Court's trust in Mr. Moore. Because what  
12 Mr. Moore is offering is to put up substantial equity in his  
13 home.

14 And in, in the interest of full disclosure to the  
15 Court, it's not the full equity and the only reason for that is  
16 the Moores have purchased a second home in Lexington where they  
17 live now and when they pur -- they've already -- they're  
18 already on P&S. When they purchase that home they can't have  
19 all of the equity in their home tied up. Once they move into  
20 the new home, they'll be willing to put up, potentially, more  
21 equity. But that's the amount they can put up now that's not  
22 going to preclude them from moving forward with a sale that  
23 they're already on P&S for. So they can't undo that sale.

24 They're also offering to have Mr. Knox live in their  
25 home. I have had discussions with them. I have been very

1 careful to advise them of what a significant undertaking it is.  
2 I didn't just simply ask, "Can he live at your house?" I told  
3 them, "He would likely be on electronic monitoring. This isn't  
4 something that's going to last a month. This case could last a  
5 year. It could last a year and a half and as time goes on this  
6 type of arrangement can become more stressful and you need to  
7 understand that if you're willing to undertake this. In  
8 addition, you'll be obligated to the Court to report any  
9 violation of conditions by this defendant." They are fully  
10 aware of what their responsibility is and they're willing to  
11 undertake that responsibility for Mr. Knox.

12 They also know the severity of the charges. They've  
13 read the criminal complaint. They know what type of money is  
14 involved. I talked to them about what the Government believes  
15 the sentencing guideline range is. They're fully aware.

16 So they're not third-party custodians offering equity  
17 who have a complete misunderstanding of the severity of these  
18 charges and the seriousness of the potential punishment. They  
19 are fully aware, but that is the trust they have in Mr. Knox  
20 with respect to their relationship. David Moore is a man of  
21 impeccable character. He's a United States citizen, originally  
22 from Northern Ireland. He met Mr. Knox at university. He has  
23 been married for 17 years. His wife, Laurie Ann, went to the  
24 University of Illinois, the MIT Sloan School of Management.  
25 They're both employed. I'm happy to relay the, the employers,

1 if you'd like. I'd prefer not to on the record if I don't have  
2 to. These are people of high integrity, high character. They  
3 are not going to violate their obligation to this Court.

4 That's the significant piece here. I would not be  
5 arguing to this Court that you release this defendant under  
6 these allegations on his own \$600,000 pledge. That would be  
7 absurd, but we don't -- when we're talking about a third-party  
8 custodian who's willing to take responsibility for effect,  
9 essentially, supervising the defendant it's, it's what it means  
10 to that person. It's not what \$600,000 means to this  
11 defendant.

12 With respect to the Government's contention that it  
13 would be easy for this defendant to access money, move money,  
14 and then use those assets to reimburse Mr. Moore, that's not  
15 going to happen. Mr. Moore -- you can speak to him --  
16 Mr. Moore is not going to accept a nickel from this defendant.  
17 If this defendant attempts to violate any conditions, if he's  
18 not home at curfew, Mr. Moore is going to call Probation  
19 immediately. Mr. Moore is that supremely confident that the,  
20 this defendant, whatever allegation of violations of trust  
21 exist in this case, Mr. Moore is supremely confident he is not  
22 going to violate Mr. Moore's trust and if he violates  
23 Mr. Moore's trust, Mr. Moore will be outraged, outraged and he  
24 will be the first person to notify this Court. That is a  
25 substantial, substantial offer, your Honor, and it's different

1 than pledging property belonging to this defendant.

2           Related, relatedly, the defendant also has a  
3 girlfriend who lives in the same neighborhood as the Moores,  
4 three blocks away. They were introduced through the Moores.  
5 She lives nearby as well. She's another added layer of  
6 security because she, too, will be keeping an eye on the  
7 defendant. She won't have the same responsibility, but she  
8 will understand the obligations of the Moores and as a close  
9 personal friend of the Moores, if she gets any inkling that  
10 this defendant is violating a condition, she is going to report  
11 that to the Moores who are going to report it to the Court.

12           Your Honor, the bottom line is that whatever  
13 allegations exist in this case about money, misrepresentations,  
14 wiping of computers, it's a different scenario now. He's, he's  
15 in front of a court. Conditions are going to be imposed on him  
16 and he is going to be under the watch not only of this Court,  
17 but also of his closest friend who's not going to take a  
18 chance. So those conditions are going to ensure that this  
19 defendant doesn't flee, similar to James Merrill in the  
20 TelexFree case.

21           This Court may not recall, but this Court had a  
22 somewhat similar case to this, a pump-and-dump scheme, with a  
23 defendant named Jehu Hand. Ultimately, an agreement was worked  
24 out to release him. Initially, the Government objected. He's  
25 an individual, he's an American citizen, but prior to this case

1 when he was aware there's some investigation he was traveling  
2 all over the world, everywhere but the United States, and he  
3 got caught attempting to make one entry into the United States.  
4 That's somewhat similar to the allegations the Government's  
5 making about this defendant.

6 He was released in this session on conditions,  
7 including his own pledge of, of assets, not the pledge of a  
8 friend, and not in Massachusetts. He returned to California  
9 and he was on electronic monitoring in his own apartment in  
10 California. Mr. Hand didn't violate any conditions. He abided  
11 by this Court's conditions. He returned to court for trial.  
12 He's convicted and now he's facing sentencing. That is the  
13 process. Mr. Hand was available to his lawyers to assist in  
14 their defense the way Mr. Merrill was available to his lawyers  
15 and given that we have conditions that can absolutely ensure  
16 that this defendant is not going anywhere, this defendant  
17 should be permitted to be on release. He'll effectively be on,  
18 in confinement with the exception of some appointments to go  
19 to, except he won't be in a jail. He'll be in confinement,  
20 though, but he'll be in a position to work with his lawyers in  
21 what is a very, very complex case with what's going to involve,  
22 I imagine, an unusually large amount of discovery. Him being  
23 locked up in this situation is going to make it very difficult  
24 for him to work with his lawyers.

25 That, in and of itself, of course, is not a reason to

1 release a defendant, but it's just another layer here. Given  
2 what we have proposed, agreed to by Probation, I suggest there  
3 are conditions that can ensure that he will return.

4 I offer Mr. Moore, if you would like to speak to  
5 Mr. Moore about his obligations if the Court's willing to  
6 release the defendant.

7 Lastly, if the Court's willing to release the  
8 defendant on those conditions, we, of course, would have -- I  
9 have, I have an appraisal available for the Court. I think the  
10 Court will probably want a title search done to show the clean  
11 title. We will prepare the documents for the clerk's office,  
12 the deed, the mortgage. Everything will be done the right way.  
13 That may take a few days, but it will be done the right way.

14 THE COURT: Anything else, Mr. Rosen?

15 MR. ROSEN: Yes, very, very briefly.

16 You know, your Honor, I don't, I don't doubt that the  
17 Moores, you know, in, intend, but we're talking about a  
18 defendant with millions of dollars who's putting up nothing on  
19 his own, not a single penny. He would, he would lose nothing  
20 if he was -- if he -- if he simply fled. And, and, you know,  
21 the fact is that these, the, the Moores, both Mr. and  
22 Mrs. Moore, they both work fulltime and there would be no one  
23 monitoring him during the day, absolutely no one.

24 So he'd be left, essentially, with free rein to do  
25 what, whatever he wants. Obviously, he could cut his bracelet

1 and flee. That happens all the time. I think the big  
2 difference between the, the cases that defense counsel talked  
3 about and this case is that in those cases all the defendants  
4 had significant ties to the (a) the United States. They were  
5 United States citizens, but (b) there were ties to their home  
6 area like, like McLellan and, I believe, Merrill as well.

7           So it's not -- it's not the -- it's not the same  
8 thing. And also, I'd note I believe in those cases -- I'm, I'm  
9 not a hundred percent positive -- that the defendants were  
10 upfront about their assets and, and, and things like that.  
11 And, you know, Mr. McLellan worked at State Street and he had  
12 legitimate income and the fraud was a, a, a smaller part of  
13 that. Here, Mr. Knox's entire job for at least the past 8  
14 years was heading a massive fraudulent empire.

15           So the -- we're talking about apples and oranges and  
16 we're talking about a defendant who won't put up a cent and  
17 that \$600,000 is something that he could repay in a second. So  
18 there, there's no incentive for him to stay and I think it's  
19 pretty, pretty evident that he'll just flee.

20           THE COURT: Okay.

21           MR. CONNOLLY: Your Honor, I, I don't want to -- I'm  
22 not going to --

23           THE COURT: No. Go right ahead.

24           MR. CONNOLLY: -- respond to everything.

25           I just want to point out that with respect to the

1 assets, that's, that's his, his lawyer's advice because of the  
2 allegations in this case and the SEC's case. That's my advice  
3 to Mr. Knox that we not talk about his assets right now. It  
4 doesn't mean that we may not talk about them later. He's not  
5 in a position to talk about his assets right now, given the  
6 allegations. That -- that's -- that -- I think that's clear to  
7 the Court.

8 THE COURT: Okay.

9 I -- I -- I mean, I will just say it does pose a bit  
10 of a conundrum. I think if I'm supposed to be evaluating  
11 someone's ability to flee, which I think requires a lot of  
12 assets in this day and age, and evade arrest, then it's  
13 difficult to do that if you don't know someone's assets. I do  
14 understand having many more assets than the Government already  
15 knows about could wind up incriminating him, too. So I think  
16 that, that's just, is what it is.

17 So I do, I do just want to say to Mr. Moore and your  
18 wife, thank you very much and, for being here. I feel like  
19 Probation has already, Ms. Walls, has already spoken to you and  
20 she memorialized what you said quite well.

21 Yes, sir?

22 MR. MOORE: Could I, could I just correct, correct  
23 some things?

24 THE COURT: Yes. Go right ahead.

25 MR. MOORE: I, and I know the gentleman here, he's



1 just doing his job, but he, he insinuated that I would accept a  
2 bag of cash on my front step. I, I'm not -- totally wrong.  
3 And I think I've already mentioned that to Mr. Connolly. I --  
4 I'd be -- I would be calling him or whoever else, probation  
5 office, whoever else that needs to be. We're not in it for  
6 this. We've been in Lexington 17 years. We have a lot of  
7 friends in the town. This is not going to happen.

8 THE COURT: Sure.

9 MR. MOORE: The next thing is he says that we're not  
10 in the house during the day. I, I can work from home, if I  
11 need to. I normally would be there. I, I do travel for  
12 business and we can make plans. We both flex the job. We  
13 feel very fortunate for that. I just want to make sure that  
14 that's clear. Don't make a substance about where I go to work.  
15 And I do work in Westborough. I work in Lexington. I'm, I'm  
16 home (indiscernible) day so I can work, I can work anywhere.

17 And I also use a lot of apps. I use WhatsApp, I use  
18 Facebook Messenger, I use Apple iMessage for my family, for my  
19 work, and I believe they're considered secured apps. Also, I  
20 work in telecom so that doesn't mean we all don't use those  
21 apps in our daily lives. They're free to talk to our friends  
22 internationally. That's what -- most people in the world are  
23 using WhatsApp. It's one of the biggest apps in the world and  
24 that's just from my, my day job experience.

25 And, and it's, it's insinuated that I might be, you

1 know, doing something wrong if I use WhatsApp because it's a  
2 secured app. Every time you change your phone it tells you  
3 you're using a secured app and, and it just happens to be free  
4 and it, it's a way of not paying, you know, exorbitant text  
5 messaging fees.

6 And Roger has visited us many times, not just a couple  
7 of times. We met in Michigan in '96. He was our first  
8 visitor. He's one of my longest friends. I've known him for  
9 nearly 30 years and when we had no money in college and, and  
10 we're eating (indiscernible) every, every night. And he's one  
11 of my longest friends and, you know, money is, is not, in this  
12 situation it's just, this discussion (indiscernible) of money,  
13 but there's things that are bigger than that. He has the same  
14 birthday as our daughter. He's practically a godparent to our  
15 children. He has -- we have spent more time on vacations with  
16 Roger visiting us or us visiting Roger than my blood relatives  
17 and certainly Laurie Ann's relatives.

18 And so there's a, there's a huge connection there in  
19 that we were part of a Northern Ireland contingent that ended  
20 up going to the university in Scotland together. And we have  
21 friends who were here last week who were very, you know,  
22 wishing they could see Roger. We know they couldn't 'cause of  
23 the, the time it takes. We've got friends, mutual friends that  
24 are visiting us for Christmas, which would be another incentive  
25 to stay, and can spend Christmas with them. We were actually

1 actively hoping we could do that if we're back in, you know,  
2 Christmas at our house. (Indiscernible) we were, we were  
3 talking about it.

4 So I know I'm going on and I don't mean to, I don't  
5 mean to take up the Court's time, but I just wanted to correct  
6 some of those things and, you know, let you hear my voice. And  
7 I travel on business and I stay in hotels that are worth  
8 hundreds of dollars and that's just the nature of the world  
9 we're in.

10 And I just, I just don't want anything put on me that  
11 I might be accepting a bag of cash. We will be absolutely  
12 inconvenienced as far as kids' college fees. It is -- is -- if  
13 there wasn't a crazy circumstance that happened, if this was --  
14 the money we're putting up is equity in our house. It's, that,  
15 that's not going to be easy for us and we want to have as much  
16 skin in the game as we can to show that we'll do everything the  
17 Court needs us to.

18 And we had a very long conversation last night, which  
19 I really appreciate. Thank you very much for taking the time  
20 to tell us and, and, and spend time with me on the phone.

21 And, and if there's anything else I can help, I, I  
22 just wanted to make sure that's heard.

23 THE COURT: Okay. Thank you very much.

24 Anything else, Mr. Rosen?

25 MR. ROSEN: I think the, his, his own words, the text

1 messages say it all. "For my clients' and my own freedom to  
2 operate, it is prudent to make travel plans wisely. I will,  
3 therefore, not route via USA. Either Canada or Mexico are  
4 available."

5           And I'm not taking issue with Mr. Moore. He can say  
6 what he wants to say. It does say in the report that he main,  
7 you know, he maintains employment in Westborough and his, his  
8 wife is in Burlington. I wasn't trying to insinuate otherwise,  
9 that he works from home, but he's known him for a long time.  
10 Did he know -- and, I mean, I don't -- what did he tell him  
11 that he did for work? I mean, he's been involved -- this is a  
12 massive, massive case involving his essential job. And so if  
13 he -- it's only a deception of investors and people who are  
14 losing large quantities of their own assets so that someone  
15 could stay in nice hotels. But, I mean, what did -- he  
16 obviously didn't tell Mr. Moore the truth, too.

17           So I think that should be taken to, into account.

18           THE COURT: Okay.

19           I, I really appreciate you speaking up, Mr. Moore.

20           So I'm going to take this under advisement. I'm, I  
21 need to look at Probation's report. I'm going to talk to  
22 Probation some more and I'm going to study the Government's  
23 exhibits, which are voluminous and I haven't really had a  
24 chance to look at them.

25           And what this means is that I'm just not making a

1 decision right now and I'll try to make a decision within the  
2 next few days. I won't try -- I'll try not to let it drag on.

3 In the meantime, if either party has anything further  
4 to submit that would be helpful, I'm happy for you to do that.  
5 I just ask you, if you decide to do that, to let Kellyann  
6 Belmont know so that I don't make a decision without getting  
7 your materials. And -- so I'll wait for them, in other words.

8 So okay. Anything else at this time?

9 MR. ROSEN: No, your Honor.

10 THE COURT: Okay.

11 All right. Thank you --

12 (Proceedings at 2:34 p.m.)

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15 CERTIFICATE

16 I, court approved transcriber, certify that the  
17 foregoing is a correct transcript from the official electronic  
18 sound recording of the proceedings in the above-entitled  
19 matter.

20 /s/ Janice Russell

February 15, 2019

21 Janice Russell, Transcriber

Date

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